

Filed 7/23/19 In re G.B. CA2/5

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IN THE COURT OF APPEAL OF THE STATE OF CALIFORNIA

SECOND APPELLATE DISTRICT

DIVISION FIVE

In re G.B., a Person Coming Under
the Juvenile Court Law.

B292045

(Los Angeles County
Super. Ct. No. 18CCJP03707)

LOS ANGELES COUNTY
DEPARTMENT OF CHILDREN
AND FAMILY SERVICES,

Plaintiff and Respondent,

v.

GEORGE B.,

Defendant and Appellant.

APPEAL from orders of the Superior Court of Los Angeles
County, Rudolph A. Diaz, Judge. Affirmed.

John M. Kennedy, under appointment by the Court of
Appeal, for Defendant and Appellant.

Office of the County Counsel, Mary C. Wickham, County Counsel, Kristine P. Miles, Assistant County Counsel, and Aileen Wong, Senior Deputy County Counsel, for Plaintiff and Respondent.

George B. (Father) and Chrystal R. (Mother) are the parents of a son, G.B., who was two years old when juvenile dependency proceedings began in this case. At the time of the jurisdiction hearing, Father was serving a six-year prison sentence for a domestic violence conviction—his third. The juvenile court assumed jurisdiction over G.B., sustaining allegations that Mother and Father have substance abuse issues. The court granted Mother six months of family reunification services while denying reunification services for Father. Only Father appeals, and we consider whether Father’s appeal of the jurisdiction finding is justiciable and whether the juvenile court’s denial of reunification services was proper.

I. BACKGROUND

A. *Prior Dependency Proceedings*

G.B. was born premature in September 2015. He tested positive for amphetamines and methamphetamines. Both Mother and Father had previously been involved in dependency proceedings concerning G.B.’s half-siblings, which we need not recount here. Dependency proceedings begun immediately after G.B. was born, however, provide relevant context for this case.

In October 2015, the Los Angeles County Department of Children and Family Services (the Department) filed a dependency petition alleging G.B. and his half-sisters (Mother’s daughters) were at risk of serious physical harm because (1) Mother and Father abused drugs and alcohol and (2) Father had a long history of domestic violence, including a recent incident in which he had hit Mother. As to Father’s substance abuse, the petition alleged he was a current user of methamphetamine and

alcohol and had a disorderly conduct conviction for being intoxicated.

The juvenile court sustained the 2015 dependency petition, and in separate criminal proceedings, Father was sentenced to six years in prison for infliction of corporal injury on Mother. G.B.'s paternal grandmother cared for him for more than a year while he was removed from Mother's care. The juvenile court terminated jurisdiction over G.B. and his half-sisters in December 2017, granting Mother sole physical and legal custody of G.B. and Father weekly monitored visits upon his release from prison.¹

B. This Case

In May 2018, the Department received information suggesting Mother was again abusing alcohol and methamphetamine. Mother was evasive and uncooperative when the Department attempted to arrange for her to be drug tested. The Department obtained a removal warrant for G.B. and his half-sisters near the beginning of June 2018 and placed all three children with G.B.'s half-sisters' paternal grandmother.

Shortly thereafter, the Department filed a petition alleging both parents' substance abuse issues put G.B. and his half-sisters at risk of serious physical harm. As to Father, the petition as filed alleged: "The child [G.B.]'s father, George [B.], has a substance abuse history and is a current abuser of methamphetamine and alcohol, which renders the father

¹ We grant the Department's request that we take judicial notice of the juvenile court's minute order and custody order dated December 8, 2017. (Evid. Code, §§ 459, 452.)

incapable of providing regular care and supervision of the child. The child is of such a young age requiring constant care and supervision and the father's substance abuse interferes with providing regular care and supervision of the child. The father has a criminal history of a conviction for Disorderly Conduct: Intox/Alcohol. The child was a prior dependent of the Juvenile Court due to the father's substance abuse. The father's substance abuse endangers the child's physical health and safety, placing the child at risk of serious physical harm, damage, and danger.”²

At the combined jurisdiction and disposition hearing in August 2018, the juvenile court received in evidence documents offered by Father to prove he had participated in parenting and anger management classes and completed six weeks of an Alcoholics Anonymous program while incarcerated. Though the documents were admitted, the juvenile court opined the evidence was “old stuff, [from] two years ago.”

² As to Mother, who does not appeal the sustained allegations against her, the petition read: “[Mother] has an extensive history of substance abuse including amphetamines, methamphetamine, opiates, marijuana, alcohol, Ice, cocaine, and heroin and is a current abuser of alcohol and illicit drugs, which renders that mother incapable of providing regular care and supervision of the children. [G.B. and his half-sister] are of such young age requiring constant care and supervision and the mother's substance abuse interferes with providing regular care and supervision of the children. The children were prior dependents of the Juvenile Court due to the mother's substance abuse. The mother's substance abuse endangers the children's physical health and safety, and places the children at risk of serious physical harm, damage, and danger.”

Father's attorney argued Father had been incarcerated since 2015 and it should be "clear to everyone here that he would not be using methamphetamine and alcohol in his place of incarceration." Father asked to be heard and, among other things, denied using methamphetamine but admitted having an alcohol problem: "That's one problem I did have, and I'm working through that, and I've been sober."

The juvenile court sustained the allegations as to both Mother and Father, with the allegation concerning Father modified to reflect only an unresolved history of alcohol abuse. The juvenile court ordered family reunification services for Mother, including drug and alcohol testing, parenting classes, and counseling. The court denied reunification services for Father because he had been convicted of a violent felony and because his "term of incarceration exceeds the time provided by law for reunification services. His release date, by his own interpretation, is 2020"³

II. DISCUSSION

Because Mother does not challenge the jurisdiction finding against her, there is no disputing that dependency jurisdiction over G.B. is proper and we need not assess the correctness of the jurisdiction finding against Father. Father's reliance on non-specific assertions of future detriment flowing from the adverse finding does not convince us we should exercise *discretion* to review that finding, and regardless, there is substantial evidence

³ When the juvenile court said Father's release date was in 2021, Father interjected to say his release date is in October 2020, but he hoped to "be out in the beginning of 2020" because he was enrolled in certain courses.

of an unresolved history of alcohol abuse that would warrant jurisdiction. As to disposition, substantial evidence supports the juvenile court’s decision not to provide Father with reunification services because all the considerations relevant to offering an incarcerated parent reunification services suggest doing so here would not be in G.B.’s best interest.

A. The Finding of Juvenile Court Jurisdiction Over G.B.

Welfare and Institutions Code section 300⁴ authorizes a juvenile court to assume dependency jurisdiction over a child when, among other things, “[t]he child has suffered, or there is a substantial risk that the child will suffer, serious physical harm or illness, as a result of the failure or inability of his or her parent or guardian to adequately supervise or protect the child” (§ 300, subd. (b)(1).) “In reviewing the jurisdictional findings . . . , we look to see if substantial evidence, contradicted or uncontradicted, supports them.” (*In re R.T.* (2017) 3 Cal.5th 622, 633.)

Where, as in this case, a dependency petition alleges multiple grounds on which the juvenile court may assert jurisdiction over a minor, we may affirm the juvenile court’s finding of jurisdiction if any one of the statutory bases that are enumerated in the petition is supported by substantial evidence. (*In re I.J.* (2013) 56 Cal.4th 766, 773; *Randi R. v. Superior Court* (1998) 64 Cal.App.4th 67, 72.) “For jurisdictional purposes, it is irrelevant which parent created [the] circumstances” triggering jurisdiction. (*In re I.A.* (2011) 201 Cal.App.4th 1484, 1492 (*I.A.*).)

⁴ Undesignated statutory references that follow are to the Welfare and Institutions Code.

In other words, it is often said that “a jurisdictional finding good against one parent is good against both,” a principle that recognizes the dependency law’s purpose of protecting children, not prosecuting their parents. (*In re Alysha S.* (1996) 51 Cal.App.4th 393, 397; see also *In re Briana V.* (2015) 236 Cal.App.4th 297, 308.)

The juvenile court found true the allegation that Mother’s substance abuse endangered G.B. and his half-sisters’ physical health and safety. As Father acknowledges in his opening brief, “the unchallenged findings as to [Mother] . . . will continue to support dependency jurisdiction” regardless of whether we reverse the findings as to him. It is therefore undisputed that the court’s assumption of jurisdiction over G.B. was proper.

Although we may exercise our discretion to consider a parent’s appeal of jurisdiction findings even when there is an independent ground warranting dependency jurisdiction, there is no good reason for us to do so in this case. Father’s unspecified concerns about the prejudicial consequences the jurisdiction finding might have in future proceedings are speculative because the Department would then “be required to demonstrate jurisdiction by presenting evidence of then current circumstances placing the minor at risk.” (*I.A., supra*, 201 Cal.App.4th at p. 1495.) Although “[a] parent’s past conduct is a good predictor of future behavior” (*In re T.V.* (2013) 217 Cal.App.4th 126, 133), the jurisdiction finding in this case would be cumulative of substance abuse allegations sustained against Father in the 2015 dependency case—to say nothing of his criminal history.

The only even colorable argument for how Father might be prejudiced in the future from the jurisdiction finding against him is the argument that he could otherwise be entitled to custody of

G.B. pursuant to section 361.2—which, because he is incarcerated, would amount to the right to make arrangements for G.B.’s care. (*In re A.A.* (2012) 203 Cal.App.4th 597, 606 (A.A.) [“An incarcerated parent has the same right as other parents to be given the opportunity to request custody under section 361.2”].) There is no doubt on this record, however, that Father would be denied non-custodial parental custody based on a detriment finding. (*In re Nickolas T.* (2013) 217 Cal.App.4th 1492, 1506 [“Section 361.2, subdivision (a) does not mandate placement with the noncustodial parent absent a judicial examination of the circumstances of the parent and child. In determining detriment, the juvenile court can distinguish between a case like A.A.—in which the parent remained incarcerated on the charges that had recently led to the removal of the child from her care—and a case in which the parent, despite earlier shortcomings and mistakes, has stabilized his or her circumstances and may be able to provide a safe home for the child”].)

We therefore decline to exercise our discretion to analyze the correctness of the juvenile court’s jurisdiction finding against Father. But we briefly note, just for his benefit (see, e.g., *In re Alexis E.* (2009) 171 Cal.App.4th 438, 451), that the adverse finding is adequately supported under the deferential substantial evidence standard of review that applies. In addition to the substance abuse allegations sustained in the 2015 case, Father’s criminal record reflects a persistent alcohol problem and the evidence he introduced to assert he had resolved the problem was stale and unconvincing. Even assuming Father has not consumed alcohol during his time in prison, the juvenile court could reasonably conclude the risk that Father would relapse

upon release poses an unacceptably high danger of serious harm to G.B.—especially given the evidence in the record of a connection between Father’s past use of alcohol and commission of domestic violence.

B. The Disposition Order Denying Father Reunification Services

Section 361.5, subdivision (e) is one of the two statutory bases for the juvenile court’s order denying reunification services for Father. The subdivision provides, in pertinent part, that “[i]f the parent or guardian is incarcerated . . . , the court shall order reasonable services unless the court determines, by clear and convincing evidence, those services would be detrimental to the child.” (§ 361.5, subd. (e)(1).) In considering detriment, “the court shall consider the age of the child, the degree of parent-child bonding, the length of the sentence, . . . the nature of the crime . . . , the degree of detriment to the child if services are not offered and, for children 10 years of age or older, the child’s attitude toward the implementation of family reunification services, the likelihood of the parent’s discharge from incarceration . . . within the reunification time limitations described in subdivision (a),⁵ and any other appropriate factors.” (§ 361.5, subd. (e)(1).)

⁵ Here, because G.B. was under three years old when he was removed from Mother’s custody, “court-ordered services shall be provided for a period of 6 months from the dispositional hearing . . . but no longer than 12 months from the date the child entered foster care . . . unless the child is returned to the home of the parent or guardian.” (§ 361.5, subd. (a)(1)(B).)

Our review of the order denying reunification services proceeds under the substantial evidence standard. (*Jennifer S. v. Superior Court* (2017) 15 Cal.App.5th 1113, 1121; *D.F. v. Superior Court* (2015) 242 Cal.App.4th 664, 669.) Section 361.5, subdivision (e) requires juvenile courts to consider the various factors it enumerates, but there is no requirement that courts must state express findings as to each. Thus, the usual rule applies, meaning “we must indulge in all reasonable inferences to support the findings of the juvenile court and must review the record in the light most favorable to the juvenile court’s orders.” (*In re Daniel C.H.* (1990) 220 Cal.App.3d 814, 839.)

The juvenile court expressly discussed and appropriately relied on two of the enumerated factors: the length of Father’s sentence and the (un)likelihood he would be released within the statutory time for reunification services. Its implied detriment finding, however, is also supported by all the remaining factors: Father had been in prison for nearly all G.B.’s life and there is no evidence Father managed to form a substantial parent-child bond;⁶ the crime for which Father was incarcerated involved domestic violence against Mother; and nothing suggests G.B. would suffer any detriment in the absence of reunification services for Father. Among “other appropriate factors” the juvenile court might have considered, Father’s short-lived participation in an alcohol recovery program carries relatively little weight. And contrary to Father’s contention, no nexus

⁶ Father contends there was a bond between G.B. and his paternal grandmother with whom he lived for over a year. Even assuming this is true, it is not among the factors enumerated in section 361.5, subdivision (e)(1).

between the denial of reunification services based on these factors and the sustained allegation of alcohol abuse is required.⁷

Substantial evidence therefore supports the juvenile court's denial of reunification services under section 361.5, subdivision (e).

⁷ In arguing the opposite, Father cites an inapposite case, *In re Albert T.* (2006) 144 Cal.App.4th 207. In that case, the Court of Appeal reversed a disposition order denying a parent reunification services under 361.5, subdivision (b)(10). (*Id.* at pp. 217-219.) That subdivision requires findings that the parent previously failed to reunify with a sibling of the dependent child and did not subsequently make a reasonable effort to treat the problems that led to the removal of the sibling. (*Id.* at p. 217.) When a subdivision (b)(10) ruling is at issue, a juvenile court's findings do need to address allegations in the prior petition (i.e., the problems that led to the removal of the sibling). By contrast, none of the findings or considerations listed in section 361.5, subdivision (e)(1) need to have any relationship to allegations in the current case or any prior dependency case.

DISPOSITION

The challenged jurisdiction finding and disposition order are affirmed.

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BAKER, J.

We concur:

RUBIN, P. J.

KIM, J.